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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,220	01/30/2004	Stephen C. Vandewinckel	P69450US0	2585

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

EXAMINER

GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. Applicant's election of 8-29-05 is noted. In as much as applicant has added new claim groups via addition of new claims and amendments to previously presented claims, the following new requirement is deemed warranted.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-2, 4, and 7, drawn to a combination vehicle bed assembly, classified in class 296, subclass 181.7.
- II. Claim 10 as newly amended, drawn to a subcombination bed assembly, classified in class 296 subclass 181.7.
- III. Newly amended claims 14-20, drawn to a dump vehicle, classified in class 298, subclass 17R+.
- IV. Claims 21-23, drawn to a vehicle and engine, classified in class 280, subclass 29+.
- V. New claims 24-28, drawn to a bed converting assembly classified in class 298, subclass 1A.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions III and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the

Art Unit: 3612

particulars of the subcombination as claimed because at least swing arms per se are not required. The subcombination has separate utility such as use as a non-dump/flat body transport.

4. Inventions IV and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least side panels with extending stake members per se are not required. The subcombination has separate utility such as use as an animal/human powered transport.

5. Inventions V and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least side panels with extending stake members per se are not required. The subcombination has separate utility such as use as a non-dump/flat body transport.

6. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2)

Art Unit: 3612

that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least snug fitting panels per se are not required. The subcombination has separate utility such as use as a wheelbarrow receptacle and/or use as a receptacle for a warehouse shelving system.

7. Inventions III and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least snug fitting panels per se are not required. The subcombination has separate utility such as use as a non-dump/flat body transport.

8. Inventions IV and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least side panels with extending stake members per se are not required. The subcombination has separate utility such as use as an animal/human powered transport.

Art Unit: 3612

9. Inventions V and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least side panels with extending stake members per se are not required. The subcombination has separate utility such as use as a non-dump/flat body transport.

10. Inventions III and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least a rear panel with a width equal to a bed width per se is not required. The subcombination has separate utility such as use as a non-dump/flat body transport.

11. Inventions III and V are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least a forward gate per se is

Art Unit: 3612

not required. The subcombination has separate utility such as use as a fixed discharge assembly – e.g. for use on a dock to load ships.

12. Inventions IV and V are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least a forward gate per se is not required. The subcombination has separate utility such as use in an animal/human powered transport.

13. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

14. This application contains claims directed to the following patentably distinct species of the claimed invention: figure 1 vs figure 2 vs figure 8.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim

Art Unit: 3612

is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

15. Due to the complexity of the above restriction/election, the requirement is being submitted to applicant in written form to allow ample time to address the issues raised.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

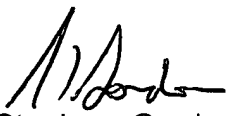
16. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

Art Unit: 3612

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 11-11-05
Stephen Gordon
Primary Examiner
Art Unit 3612

stg